IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 22102 of 2004

Between:

Bellam Venkata Ramanaiah S/o Venkata Narasiah
R/o Singarayakonda Village and Mandal, Prakasam District

..... PETITIONER

AND

1 National Highway Authority of India, rep by General Manager-cum-Project Manager, Nellore District
2 The Special Deputy Collector and Competent Authority, Land Acquisition, (National Highway Authority of India) N.H. S, Ongole, Prakasam District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus, declaring the action of the respondents in issuing Notification under Section 3-D(1) of the national Highway Act, 1956 in proceedings Rc. NH-5/440/03,
dt 24-11-2004, by not including the land of the petitioner to an extent of Ac. 0.43 cents in Sy. No. 98/1 & Sy. No. 98/2 of Old Singarayakonda (V), Singarayakonda (M), in terms of the proceedings of the second respondent in Rc. NH-5/440/03
dt 20-11-2004, as illegal, arbitrary and without any basis and consequently direct the respondents to issue notification U/s 3-D (1) of the Act by including the remaining land of the petitioner to an extent of Ac. 0.43 cents in Sy. No. 98/1 & Sy.No. 98/2 of Old Singarayakonda (V) Singarayakonda (M), Prakasam District. by granting six months for the petitioner to shift his men and machinery.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR LABOUR

The Court made the following:

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THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.22102 of 2004

ORDER:

Petitioner, claiming to be the owner of Ac.1.00 of land in Sy.No.98/2 of Old Singarayakonda village, filed W.P.No.20837 of 2001 alleging that he came to know that respondents are trying to acquire his land in connection with the widening of National High Way No.5 between 237.000 KM to 354.000 KM, and are about to dispossess him without following the procedure prescribed under the National Highways Act, 1956 (for short 'the Act'), and sought a direction to the respondents not to dispossess him till his objections are considered. In the counter affidavit filed on behalf of the respondents, it is alleged that Notification issued under Section 3-A (1) of the Act only expresses the intention of the Government to acquire the land for public purpose and that they propose to acquire only 0.0725 sq. meters in Sy.No.98/2 belonging to the petitioner and would take possession of the petitioner's land only after complying with the procedural formalities. Taking into consideration the allegation in the counter affidavit filed on behalf of respondents, the aforesaid W.P.No.20837 of 2001 was disposed of with a direction to the respondent not to dispossess the petitioner from his land until the procedure contemplated under Section 3 (C) is complied with. Thereafter, petitioner filed W.P.No.1823 of 2003, which was dismissed.

This petition is filed contending that from out of Ac.1.00 cents of land owned by him, respondents who acquired Ac. 0.18 cents notified their intention to acquire only Ac.0.39 cents in Sy.Nos.98/1 and 98/2, along with the land belonging to others, and since he is running a workshop and weigh bridge, in the land proposed to be acquired, if the remaining extent of land belonging to him in the said S.Nos.98/1 and 2 is not acquired, it would become useless for enjoyment by him and so respondents

may be directed not to dispossess him from the land in his possession, till compensation due to him is paid, and grant a reasonable time for vacating the premises.

Second respondent filed his counter affidavit on behalf of respondents, contending, inter alia, that he, considering the objections of the petitioner that he would be put to inconvenience if part only of his land is acquired, he sent proposals to acquire the remaining extent of land belonging to the petitioner in Sy.No.98/2 and a Draft Notification under Section 3-A (1) of the Act was sent to the General manager-cum-Project Director, National Highways Authority of India on 25-11-2004 for publication in the Gazette of India.

Since the contention of the petitioner that if a part of his land only is acquired, he would be put to inconvenience and since his offer that he is willing for acquisition of the remaining land also is accepted by respondents, and since a draft notification under Section 3 A (1) of the Act was sent for publication in the gazette, respondents can take possession of the land notified for acquisition after following the procedure prescribed in the Act.

So, the writ petition is disposed of with a direction to the respondents not to dispossess the petitioner from his land in Sy.Nos.98/1 and 98/2 till the procedure contemplated under Section 3 (C) of the Act is followed and declaration under Section
3 (D) of the Act is issued.

Petition is ordered accordingly. No order as to costs.

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(C.Y.SOMAYAJULU, J)

Dated: 19-04-2005

YCR

To

1 The General Manager-cum-Project Manager,
National Highway Authority of India, Nellore District
2 The Special Deputy Collector and Competent Authority,
Land Acquisition, (National Highway Authority of India)
N.H. S, Ongole, Prakasam District

3. 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad. (OUT)

4. 2 C.D. copies.